

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

Plaintiff,

-against-

MEMORANDUM AND ORDER
04 CR 846 (ILG)

SANJAY KUMAR,

Defendant.

-----X
GLASSER, United States District Judge:

The defendant, following his indictment, was released with the consent of the government upon the posting of a \$5,000,000 personal recognizance bond secured by the residence owned jointly by him and his wife, with travel restricted to the continental United States and the surrender of his passport. At the time the travel restrictions were imposed, the defendant reserved the right to seek modification of them and it was understood that he would, in all probability, do so.

On October 7, 2004, a hearing was held on the defendant's first application for permission to travel abroad to pursue a business opportunity and for the modification of the travel restriction that was, therefore, required. The government opposed his application, based primarily upon the defendant's wealth and the ability to live anywhere in the world that wealth provided. After considering the factors that are listed in 18 U.S.C. § 3142(g), to inform the Court's judgment in this regard, his application was granted. His passport was directed to be returned to enable him to travel abroad on October 9th and return on October 12th, 2004, at which time he was to re-surrender his passport, all of which transpired without incident.

After unsuccessfully seeking the government's consent for permission to make another business trip abroad, see correspondence dated November 15th, 2004, between the defendant and the government, letter application dated November 16th, 2004, was made to the Court and received via facsimile transmission. The application requested permission to depart New York for London on November 17th or 18th and return on the 19th or 20th of that month. A detailed itinerary was provided.

The considerations which informed the Court's judgment to grant his prior application for a similar modification are equally valid now. As before, the defendant will be traveling alone. His wife, two school age children, sister and seventy-three year old father will remain on Long Island, a condition upon which the application is granted. He has abided by the terms upon which he was released on bail and his "consistent appearance when flight is possible is an important indicator of whether a defendant is likely to appear once again." Wood v. United States, 391 F.2d 981 (D.C. Cir. 1968).

Accordingly, the terms of bail are hereby modified as follows:

Departing:

- 17th November: New York (JFK) to London (LHR) on American Airlines flight no. 116. This flight departs New York at 11:55 p.m. and arrives in London at 11:40 a.m. the next morning; or
- 18th November: New York (JFK) to London (LHR) on American Airlines flight no. 142. This flight departs New York at 8:30 a.m. and arrives in London at 8:15 p.m.

Returning:


- 19th November: London (LHR) to New York (JFK) on American Airlines flight no. 131. This flight departs London at 4:35 p.m. and arrives in New York at 7:25 p.m.; or
- 20th November: London (LHR) to New York (JFK) on American Airlines flight no. 115. This flight departs London at 8:20 a.m. and arrives in New York at 11:00 a.m.

The defendant will be staying in London at the Radisson Edwardian Hotel, Bath Road, Hayes, Middlesex, London, England. The telephone number of the hotel is (011) 20 8759 6311.

He shall return his passport to pretrial services on November 23, 2004, when a status conference has been scheduled in this matter.

SO ORDERED.

Dated: Brooklyn, New York
November 16, 2004



I. Leo Glasser

Copies sent by facsimile to:

John P. Cooney, Jr., Esq.
Davis Polk & Wardwell
212-450-3800

David B. Pitofsky, Esq.
Assistant U.S. Attorney
718-254-6324